IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 19763 of 2007(C)

PETITIONER:

EASY, S/O. GEORGE,
ARACKAL HOUSE, MUNAMBAM KARA.

BY ADV. SRI.DINESH R.SHENOY

RESPONDENTS:
----

1. THE STATE OF KERALA,
REP. BY THE DISTRICT COLLECTOR, ERNAKULAM.

2. THE SPECIAL TAHSILDAR (LA) GENERAL,
ERNAKULAM, KOCHI-30.

BY GOVERNMENT PLEADER SHRI L.G. SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE PHOTOCOPY OF THE CLAIM STATEMENT FILED BY THE PETITIONER DATED 5.2.1992.

EXHIBIT P2 TRUE PHOTOCOPY OF THE AWARD PASSED IN LAC NO.123/1994 DATED 31.12.1994 PASSED BY THE SECOND RESPONDENT.

EXHIBIT P3 TRUE PHOTOCOPY OF THE RECEIPT DATED 11.1.1995 SIGNED BFY THE PETITIONER.

EXHIBIT P4 TRUE PHOTOCOPY OF THE REFERENCE APPLICATION DATED 11.1.1995 SUBMITTED BY THE PETITIONER.

EXHIBIT P5 TRUE PHOTOCOPY OF THE LETTER DATED 16.7.1997, ADDRESSED TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL

K. PADMANABHAN NAIR, J.

==========

W.P(C) NO. 19763 OF 2007

==========

Dated this the 16th day of August, 2007

J U D G M E N T

Petitioner's land was acquired for the construction of the Fishing Habour at Munambam. Award was passed on 31.12.1994. Petitioner received the award amount by cheque on 11.1.1995 and on the same day he filed an application stating that the amount awarded was inadequate and the matter has to be referred to the reference court for considering the claim of enhancement. That application was rejected stating that the application was received by the Land Acquisition Officer on 12.1.1995 and that the petitioner received the compensation without any protest. It is trite law that no written protest is necessary and even an oral protest is sufficient. It is very difficult to believe that a person who filed an application for enhancement of compensation on the same day on which he received the amount awarded had received the same without raising any objection. I hold that the reasons stated for rejecting the reference application filed by the petitioner under Section 18 of the Land Acquisition Act is

unsustainable and it is liable to be quashed.

2. It is submitted by the learned counsel appearing for the petitioner that the petitioner filed an application under Section 28A(3) of the Act for referring the matter and that application was allowed and the matter was referred and the same is pending before the Additional Sub Court, North Parur as L.A.R. No.145 of 2005. It is also submitted that a direction may be issued to the Land Acquisition Officer to refer this matter also forthwith to be heard along with L.A.R. No.145 of 2005.

In the result, Writ Petition is allowed. Exhibit P5 order passed by the Land Acquisition Officer rejecting the application filed by the petitioner on 11.1.1995 is hereby quashed. There will be a direction to the Land Acquisition Officer to refer Exhibit P4 application filed by the petitioner on 11.1.1995 to be heard along with LAR No.145 of 2005 pending before the First Additional Sub Court, North Parur.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

==========

W.P(C) NO. 19763 OF 2007

==========

J U D G M E N T

16TH AUGUST, 2007